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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,685	01/11/2002	Peter Ar-Fu Lam	B7HTAG	9707
7590	09/06/2006		EXAMINER	
Peter Ar-Fu Lam 20104 Wayne Ave. Torrance, CA 90503			FIDEI, DAVID	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,685

Applicant(s)

LAM, PETER AR-FU

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-21 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 14-21 and 28-35 is/are rejected.
- 7) ☒ Claim(s) 12, 13, 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 28-35 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a tag extending along both sides of the suspension arm, does not reasonably provide enablement for “along one” side of a suspension arm. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to enable one as to how to make and/or use the invention commensurate in scope with these claims. The present invention as originally disclosed provide not constructional details as to how the retail garment hanger is constructed to extend along one of the supporting arms.

3. Claims 28-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As noted in the previous paragraph, nothing is set forth in the present invention that indicates the garment hanger is constructed to extend along one of the supporting arms.

4. Claims 28-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As stated previously, the display tag extending along on the supporting arm in the present invention is not enabled by the present disclosure.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The frontal view, said fasteners and the color of said hanger has no antecedent basis.

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the garment hanger having a display tag extending along one of the supporting arms must be shown. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 14, 17-21 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Rahmey (Patent no. 6,209,763). A package is disclosed in figures 4 and 5 where a garment hanger 40 is provided with a display tag 60 and at least two separate fasteners 76, 68 for securing the display tag behind the garment hanger and for providing substantial front view of the hanger in figure 5. The same can be said of hanger 20 also.

As to claims 14 and 17, the fastener comprises a flap that attaches at least two points of the garment hanger to the tag in as much as is claimed.

As to claims 18-21, a folded flap is defined at 70 that has opening 72. As to claim 20, dictionary.com defines a slit as “a long, straight, narrow cut or opening” which is sufficiently anticipated by the disclosure of Rahmey.

As to claim 28, two holes are positioned behind tabs 80 in figure 4 of Rahmey.

10. Claims 14, 17, 18, 19, 21, 28, 30, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipate by Banks (US Patent no. 1,682,106). In figures 1-3 a “retail package” is provided in as much as is claimed comprising a at least one garment hanger “A” having a suspension member 5 and two support arms extending from opposite directions of said suspension member for supporting a garment. As to claim 14, display tag “B” is positioned behind the garment hanger for proving a substantial full frontal view of the garment hanger as shown in figures 1 and 3.

As to claims 17 and 18, a folded flap is formed by portion 13.

As to claim 19 a “hole” is disclosed by opening 14.

As to claim 21, the display tag “B” defines a display area 13 of the folded portion of the card that is positioned substantially on top of the supporting arms.

As to claims 28 and 30, at least two holes are provided by the fasteners 16.

As to claims 31, the folded portion 13 of the card has a substantial display area positioned vertically above the supporting arms as shown in figure 3.

As to claim 32 , two separated fasteners 16 are disclosed.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 10-11, 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markman (Patent no. 5,962,834). A garment hanger 10 is provided for inventory tracking and management of dry cleaning were a tag 10 is provided with a display area 12 extending along the extension arms of the hanger. The difference between the claimed subject matter and Markman resides in a first garment hanger positioned above the hanger shown in Markman. Since, the device is used in an inventory system it is submitted it is well know in the dry cleaning business to arrange hangers in front of one another. To provide such an arrangement in Markman would have been within the level of ordinary skill and obvious for the reason of arranging multiple garments.

14. Claims 14, 15, 16, 31, 33 and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Banks (US Patent no. 1,682,106). The difference between resides in the fastening devices used and type of hanger employed. To use a strap to secure the card of Banks would have been a well known means for securing an object to carrier. Employing a transparent or colored strap would have been an obvious matter of design choice for the reason that the color of the strap is

of no particular criticality as the prior art device will function equally well regardless of the fastener color used to secure the card to the hanger.

Also with respect to claim 33, Official Notice is taken that the adjustable hanger width devices are known in the art. To employ such a device with the card of Banks would have been an obvious selection of garment holders to one skilled in the art.

15. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banks (US Patent no. 1,682,106) as applied to claim 18 above, and further in view of Feldman (US Patent no. 5,423,139). It would have been obvious to one of ordinary skill in the art to construct the opening 14 of Banks provided by at least one slit, as taught by Feldman figure 2, #14, in order to provide an aperture to receive the hanger hook.

Allowable Subject Matter

16. Claims 12, 13 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. Claim 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

18. Applicant's arguments with respect to claims 12 have been fully considered and are persuasive. The rejection of claims 12 and 13 has been withdrawn. On page 9, of the response filed June 14, 2006 applicant explains what the means recited in claim 12 encompasses. In the previous Office Action, paragraph 4 should have stated claims 12 and 13, rather than 12 and 14-17, as explained in the body of the rejection. In event the combination of elements recited have been indicated as allowable over the prior art.

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With regard to a “retail package” being set forth in the preamble of the claims, it is the Examiner’s position this language fails patentably distinguish the subject matter over the prior art. In order to further limit the claim there must be some distinction based upon the intended use recited. “However, in apparatus, article, and composition claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art, see M.P.E.P. § 2111.02 THE INTENDED USE MAY FURTHER LIMIT THE CLAIM IF IT DOES MORE THAN MERELY STATE PURPOSE OR INTENDED USE. The examiner can see no structural differences between the claimed invention and the prior art based upon the intended use recited. Accordingly, the rejection has been maintained to this extent.

With regard to Applicant’s invitation that the Examiner execute an affidavit under 37 C.F.R. 1.107(b), the request imposes a higher burden than is required of the Patent and Trademark Office (PTO) to establish a prima facie showing. The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine , 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), see M.P.E.P. §2144. Official Notice is taken for the use of “straps” as a fastening means to attach articles. Toys, dolls, cars, etc., attached to cardboard boxes often employ straps to hold the toys in place. In fact, Patent no. 5,896,991 clearly refers to such devices in col. 1, lines 35-45 refers to a “strap” that the Examiner is referencing as being conventional in the art. Short of applicant averring that he is the inventor of strap fasteners, the burden is upon him to rebut the holding. In so far as clarification has been requested further art has been randomly cited showing “straps” for attaching articles to support panels and Patent no. 3,563,372 (conceived of more than 40 years prior to the present) is cited to show color coated fasteners of the type 16 disclosed by Banks.


With regard to the remaining claims, claim 31 is not seen as corresponding to prior claim 6 when nothing is contained in new claim 31 that includes fasteners securing the tag to the hanger. In fact the broader subject matter claimed than that previously rejected raised new issues and permutations of the prior art not previously considered. In any event the broader subject matter is not novel over the prior art as detailed above.

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Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David T. Fidei
Primary Examiner
Art Unit 3728

dtf
September 4, 2006